

Remarks

This is in response to the official action dated September 15, 2001 (Paper No./Mail Date 20010908). Applicants note with appreciation the Examiner's careful review of the pending application.

In response to the office action, Claim 1 has been amended to incorporate the recitations of Claim 2 and to incorporate the choices of dependent claims 11-14 as a Markush group. Claims 2 and 11-14 have accordingly been cancelled. Claim 3 has been amended to correct "claims" to "claim."

As one portion of the amendment, the recitation that the article is "substantially moisture free" has been placed in the preamble. As set forth in (for example) MPEP 2111.02, descriptive recitations in the preamble are entirely appropriate and can help define the invention for the skilled person and the public.

Priority

Applicants note with appreciation the Examiner's reminder concerning priority. Undersigned counsel has correspondingly reminded Applicants' Irish counsel as well.

The Rejections under §112

Claims 1-18 have been rejected under § 112 as indefinite based upon the choices of named articles in (for example) claims 11-14 as filed.

In response, and as noted above, Claim 1 has been amended to recite various choices in a Markush group. Furthermore, Applicants submit that the specification is clear to the skilled person in that the article is in the form of a fabric sheet, and that the sheet can also be formed into related items. In particular, the specification discloses articles made from the sheet that are conveniently used in barbering, hairstyling and the like as clearly set forth in (e.g.) Paragraphs 0008, 0009, and 0052-0059 of the specification.

Claim 2 has been rejected on the grounds that the dye retainer is unnamed. Applicants submit that the skilled person recognizes that the dye retainer refers to a composition that is added to the fabric and that is more likely to absorb dye than the fabric would be otherwise; e.g., Paragraph 0075.

Claim 15 has been rejected because it refers to "the neck of a user." The Examiner questions the antecedent basis of the term "the neck." Applicants respectfully submit that a person's neck does not form part of the claimed invention, but that the absorbent article of the claimed invention can be used adjacent to a person's neck. Accordingly, the phrase "the neck of a person" is the most suitable way to express this in context. Some other phraseology (e.g., listing an antecedent "neck" or using a term such as "said neck") would be inappropriate and less clear.

In response to the § 112 rejections of claims 16-18, these claims have been amended to specifically recite their dependence from Claim 1 and to recite the choices in Markush fashion.

The Anticipation Rejection under Saito

In the office action, Claim 1 was rejected as anticipated by Saito (US20020095711). In response, Claim 1 has been amended to incorporate the recitations of Claim 2 and to incorporate the choices in prior claims 11-14 as a Markush group.

When Saito mentions an absorbent article (e.g., Paragraphs 0038, 0039 and 0060), those articles lack a dye retainer that absorbs dye in the web and prevents dye from penetrating through the disposable absorbent media. Accordingly, because Saito fails to disclose the recitations of Claim 1 as now presented within Saito's four corners, Saito must be removed as a § 102 reference.

The Anticipation Rejection under McDevitt

Claim 1 has also been rejected as anticipated by McDevitt (US20020152538). Although McDevitt includes elements of Claim 1 as previously presented, McDevitt lacks any disclosure of the impregnated dye retainer that is now recited in Claim 1.

Accordingly, because McDevitt lacks all of the elements of Claim 1 as now presented within McDevitt's four corners, McDevitt must likewise be removed as a § 102 reference.

The §103 Rejection under Saito

Claims 2, 7 and 8 as previously presented were rejected as obvious over Saito. Claim 2 is no longer pending. Nevertheless, because the recitations of Claim 2 are now incorporated in Claim 1, a response to the § 103 issue should be helpful in advancing prosecution.

In particular, the Examiner takes the position that the term "dye retainer" could apply to any fabric that is capable of accepting dye. Because of that, the Examiner argues that Saito discloses a "dye retainer."

In response, Applicants first submit that the skilled person understands that the dye retainer refers to a composition that would increase the absorbency of the fabric rather than simply referring to a function of fabrics in general. Indeed, by reciting the dye retainer separately from the absorbent article, the specification and claims make this clear to the skilled person.

The specification clearly sets forth that the dye retainer is a separate composition; e.g., Paragraphs 0019, 0046, 0060 and, 0075. In particular, Paragraph 0075 points out that the fabric is impregnated with an additional composition that the specification refers to as the "dye retainer."

Other than the Examiner's argument that because a fabric could potentially accept a dye the fabric itself therefore is the dye retainer, nothing in Saito discloses or suggests a separate composition as a dye retainer. Indeed, Saito never uses the word "dye" (or even the word "color"). As a result, the suggestion comes from the claim itself rather than from the references applied to date. Such a circular suggestion cannot form an appropriate § 103 argument against the now-pending claims.

No other objections have been raised against the pending claims. Therefore, Applicants submit that the claims are in condition for favorable reconsideration at the earliest possible opportunity.

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Respectfully submitted,

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